

Date of Hearing: May 4, 2016

ASSEMBLY COMMITTEE ON LOCAL GOVERNMENT

Susan Talamantes Eggman, Chair

AB 2030 (Mullin) – As Amended April 26, 2016

**SUBJECT:** Transportation districts: contracts.

**SUMMARY:** Changes specified bidding requirements for the San Francisco Bay Area Rapid Transit District and the San Mateo County Transit District. Specifically, **this bill:**

- 1) Increases the bid threshold, from \$100,000 to \$150,000, above which the San Francisco Bay Area Rapid Transit District (BART) and the San Mateo County Transit District (SamTrans) must award contracts for supplies, equipment and materials to the lowest responsible bidder or to the bidder who submits a proposal that provides best value, as defined.
- 2) Increases, from \$100,000 to \$150,000, the maximum procurement amount for supplies, equipment or materials under which BART and SamTrans must obtain at least three quotations that permit prices and terms to be compared.
- 3) Increases, from \$2,000 to \$5,000, the minimum procurement amount for construction and for supplies, equipment or materials above which BART must obtain at least three quotations that permit prices and terms to be compared.
- 4) Increases, from \$2,000 to \$5,000, the minimum procurement amount for supplies, equipment or materials above which SamTrans must obtain at least three quotations that permit prices and terms to be compared.
- 5) Requires the \$5,000 amount for SamTrans, specified in 4), above, to be adjusted on January 1, 2018, to reflect the percentage change since January 1, 2016, in the California Consumer Price Index (California CPI), and further requires that amount to be adjusted each January 1 thereafter to reflect the annual percentage change in the California CPI.

**EXISTING LAW:**

- 1) Requires BART and SamTrans to let contracts for the purchase of supplies, equipment, and materials to the lowest responsible bidder or to the bidder who submits a proposal that provides best value, as defined, if the amount of the contract exceeds \$100,000.
- 2) Requires BART to obtain at least three quotations that permit prices and terms to be compared whenever the expected procurement required exceeds \$2,500 and does not exceed \$10,000 for the construction of facilities and works or does not exceed \$100,000 for supplies, equipment, or materials.
- 3) Requires SamTrans to obtain at least three quotations that permit prices and terms to be compared whenever the expected procurement required exceeds \$2,500 and does not exceed \$100,000 for supplies, equipment, or materials.

**FISCAL EFFECT:** None

**COMMENTS:**

- 1) **Bill Summary.** This bill makes several changes to the procurement requirements for BART and SamTrans. For both BART and SamTrans, this bill increases the formal bid threshold from \$100,000 to \$150,000 above which both agencies must award contracts for the purchase of supplies, equipment and materials to the lowest bidder or the bidder that provides the best value.

For BART, this bill also increases the minimum dollar amount, from \$2,500 to \$5,000, above which BART must obtain three quotes for construction of facilities and works for the purchase of supplies, equipment or materials. It also increases the maximum amount allowed under this relaxed procurement method for the purchase of supplies, equipment or materials, from \$100,000 to \$150,000.

For SamTrans, this bill increases the minimum dollar amount, from \$2,500 to \$5,000, above which SamTrans must obtain three quotes for the purchase of supplies, equipment or materials, and increases the maximum amount allowed under this procurement method from \$100,000 to \$150,000 (there is no construction component in this provision for SamTrans). The bill also requires the \$5,000 minimum for SamTrans to be adjusted for inflation using the California CPI. This adjustment must be made on January 1, 2018, to reflect the change since January 1, 2016, and annually thereafter to reflect the annual change in the California CPI.

This bill is sponsored by the author.

- 2) **Author's Statement.** According to the author, "This bill adjusts SamTrans' and BART's procurement thresholds as follows: 1) Raises the limit under which the agencies can purchase supplies, equipment and materials via the 'best value' process from \$100,000 to \$150,000; and 2) Increases the small purchase threshold from \$2,500 to \$5,000, allowing the agencies additional flexibility to meet their purchasing needs more quickly, particularly for locally-funded purchases...AB 2030 increases (these) purchasing thresholds...to allow relatively low-cost procurements to be processed in a more efficient and expeditious manner while still complying with Federal Transit Administration (FTA) requirements."
- 3) **Background.** Current law requires both BART and SamTrans to issue contracts for the purchase of supplies, equipment, and materials to the lowest responsible bidder or to the bidder who submits a proposal that provides best value, as defined, if the amount of the contract exceeds \$100,000.

A less formal procurement method is allowed for smaller contracts. For construction of facilities and works that is expected to cost between \$2,500 and \$10,000, and for the purchase of supplies, equipment or materials that is expected to cost between \$2,500 and \$100,000, BART must obtain at least three quotes that permit prices and terms to be compared. SamTrans must follow the same rules when purchasing supplies, equipment or materials.

According to the author, "Effective approximately one year ago, the federal government raised the 'Simplified Acquisition Threshold' to allow federal grantees like BART and SamTrans to make purchases using federal grant funds via informal procurement methods for

services, supplies, and other property of up to \$150,000, with even less stringent requirements for 'micro-purchases' of under \$3,000."

The Simplified Acquisition Threshold (SAT) is set by the federal government for its Simplified Acquisition Procedures (SAP), which are designed to help federal agencies meet their small business procurement targets. SAPs employ streamlined contracting procedures for contracts valued between \$2,500 and \$150,000, such as allowing quotations (including oral quotations) instead of requiring full-blown bids, requiring less stringent reporting, and setting simpler rules for subcontracting. Federal acquisition thresholds are adjusted every five years and published in the Federal Register. The latest adjustment in 2015 raised the micro-purchase threshold to \$3,500. The SAT ceiling remained the same at \$150,000.

- 4) **Policy Considerations.** The Committee may wish to consider the following:
- a) **Conformity to Federal Limits.** The author has pointed to the SAT as justification for changing the procurement limits in this bill. The minimum SAT for "micro purchases" is \$3,500. This bill adjusts a similar minimum for BART and SamTrans to \$5,000. The Committee may wish to consider whether the stated intent of this bill – to conform to the federal SAT – has been accomplished with the bill's proposed increase to \$5,000.
  - b) **Legislative Oversight.** This bill requires an automatic adjustment for inflation of the increased \$5,000 minimum dollar amount above which SamTrans must obtain at least three quotes when contracting for supplies, equipment or materials. This would effectively eliminate legislative oversight of this authority. The Committee may wish to consider whether the Legislature should relinquish this oversight function.
- 5) **Arguments in Support.** None on file.
- 6) **Arguments in Opposition.** None on file.

**REGISTERED SUPPORT / OPPOSITION:**

**Support**

None on file

**Opposition**

None on file

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